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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

In re A.V., JR., a Person Coming Under the  
Juvenile Court Law.

STANISLAUS COUNTY COMMUNITY  
SERVICES AGENCY,

Plaintiff and Respondent,

v.

A.V.,

Defendant and Appellant.

F077360

(Super. Ct. No. 517579)

**OPINION**

APPEAL from an order of the Superior Court of Stanislaus County. Ann Q.  
Ameral, Judge.

Nicholas J. Mazanec, under appointment by the Court of Appeal, for Defendant  
and Appellant.

John P. Doering, County Counsel, Maria Elena R. Ratliff and Jeremy Meltzer,  
Deputy County Counsel, for Plaintiff and Respondent.

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## **INTRODUCTION**

Appellant A.V. (father) appeals the juvenile court's order terminating his reunification services as to his son, A.V., Jr. (A.V.), at a hearing held pursuant to Welfare and Institutions Code section 366.21, subdivision (f).<sup>1</sup> He contends the court's order finding the Stanislaus County Community Services Agency (agency) offered reasonable reunification services to him must be reversed and he should be granted further reunification services because (1) the juvenile court's finding that the agency made reasonable efforts to provide reasonable services was supported by insufficient evidence and (2) the court improperly used father's level of engagement in its determination the agency offered reasonable services. We disagree and affirm.

## **FACTUAL AND PROCEDURAL BACKGROUND**

On May 2, 2016, dependency petitions were filed alleging A.V., age 14, and his half siblings<sup>2</sup> came within the juvenile court's jurisdiction under section 300, subdivisions (b) and (g). The children were removed from mother's care because of substance abuse issues and neglect. A.V. has Down syndrome and is significantly delayed in all areas. He was placed in the care of a regional center. The children were adjudged dependents of the court on July 22, 2016. Father lived in Tennessee and had not been involved in A.V.'s life since A.V. was a baby and appeared to have abandoned him. When father was located, he informed the court he wished to be involved in the proceedings. Father was offered reunification services.

The service objectives for father were:

- "1. Stay sober and show your ability to live free from alcohol dependency."
- "2. Show your ability and willingness to have custody of your child(ren)."

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code unless otherwise noted.

<sup>2</sup> A.V.'s half siblings, their fathers, and mother are not parties to this appeal. Our recitation of the facts will focus on issues pertaining to father and A.V.

“3. Show your ability to provide adequate care for your child’s special needs.”

“4. Consistently, appropriately and adequately parent your child(ren).”

“5. Show your ability to understand your child(ren)’s feelings and give emotional support.”

“6. Show that you accept responsibility for your actions.”

Father was ordered to complete an anger management assessment and follow all recommendations, complete a parenting program and follow all recommendations, complete a livescan, complete a substance use assessment and follow all recommendations, and participate in random drug testing. He was to have one video call visit per week with A.V. If he were to visit or move to Stanislaus County, he would receive a minimum of one in-person visit per week.

A six-month status review report was filed on January 3, 2017. It indicated that on December 28, 2016, father reported to his social worker he had not been contacted by any service provider in Tennessee. Father’s progress on “anger management” was specified as “unknown,” and the social worker had not been able to get a status. Services were being sought for father in Tennessee. The agency recommended that services be continued. On January 13, 2017, the court noted the report was “willfully insufficient,” and requested an addendum report to be filed.

The addendum report was filed on February 17, 2017, and provided more information on efforts made to provide services to father. It indicated the earliest he could be seen by a Spanish speaking clinician, as father only spoke Spanish, was March 8, 2017, and that his insurance would cover the appointment. The facility provided parenting, substance use assessment, and anger management assessment. The report indicated the social worker was “hopeful to request that the assigned clinician can tailor the sessions to address anger management, substance use, and parenting.”

On April 25, 2017, the juvenile court made a finding that father was not provided with reasonable services from October 4, 2016, through February 4, 2017. The court

ordered the agency to try to find classes in Tennessee regarding caring for a special needs child, particularly one with Down syndrome. Father's case plan was revised to indicate he was to participate in individual counseling to focus on personal issues, anger management, and parenting a child with disabilities. Substance abuse was no longer a component of the plan.

A second six-month status review report was filed on August 11, 2017. It indicated father had attended counseling on March 24, 2017, and the doctor had given him a psychological test and a urine test and that he had another appointment on April 28, 2017. On May 3, 2017, father told the social worker he had gone to a few counseling sessions and all they ask if he was feeling suicidal, if he was taking medication, and how he was feeling.

On June 28, 2017, the social worker attempted to contact father. Father did not answer. On July 5, 2017, the social worker called father again. Father did not answer, and his voicemail was full. On July 17, 2017, the social worker was informed by the clinician father was no longer receiving counseling. The clinician stated father had attended an intake and one other appointment but did not go back. The clinician stated father had no diagnoses and no need for medical treatment. On July 18, 2017, the social worker asked father why he stopped attending counseling, and father said it was because they never called him for another appointment. On August 4, 2017, father told the social worker he had a medical appointment the following Thursday and he would ask about counseling then. He had not looked into potential services for A.V. in the event A.V. were sent to live with him because A.V. was not in his care, and he would not look into it until he knew A.V. would for sure be with him.

The report indicated father had video call visits with A.V. regularly, but A.V. does not know father and has no bond with him at all.

On September 7, 2017, at the six-month status review hearing, the juvenile court made a finding that reasonable services had been offered to father, services were

continued as to father, and a 12-month status review hearing was set for October 19, 2017.

Father requested a contested 12-month status review hearing due to his contention reasonable services had not been provided. The hearing was continued a number of times and ultimately held over a period of three days on March 13, 2018, March 21, 2018, and March 23, 2018. Father had begun receiving parenting education services at a parenting education entity called Camelot on February 21, 2018, and had attended three sessions by the first day of the review hearing.

The 12-month status review report indicated there would be a detriment to the physical health, safety, protection, and/or physical or emotional well-being of A.V. if he were returned to the custody of father. The report indicated A.V. has no bond with father and though given the opportunity, father had not visited due to fear it would interfere with his immigration case. The social worker expressed concerns that without seeing A.V. in person, father had not been able to understand A.V.'s disability and daily needs. It was recommended father's reunification services be terminated.

Father and his social worker testified at the hearing. The social worker testified father had not been consistent with meeting his case plan objective of having twice monthly video call visits with A.V. and had not once come to California for an in-person visit. She also testified father had not provided the agency with any information regarding what kind of services he could arrange for A.V. in his county nor where A.V. would go to school if he were returned to his care. The social worker testified as to the efforts the agency made in attaining counseling/parenting services for father, outlined in more detail below. The agency's position was that father had not shown an ability or willingness to have custody of his son and has not shown he is able to obtain resources to meet the needs of his son. The social worker also testified A.V. was thriving in his current placement and does not recognize his father during video calls.

The social worker testified Camelot was able to assist in father's ability to parent a child with Down syndrome. In addition to Camelot, father was referred to a parent mentor from Down Syndrome Awareness that could assist him in understanding issues involved with parenting a child with Down syndrome. Father had not called the parent mentor.

Father testified he had not come to California for fear of being deported. He testified he had received services from Camelot for three weeks and that he found the services helpful.

When asked what school A.V. would go to if sent to live with him, father testified he "would have to look into that." He testified he did not know if he would be able to understand A.V. because he has not had sufficient contact with him. He testified he knew A.V. had Down syndrome since mother was pregnant and he left California when A.V. was one year old. He has never asked the social worker any questions about A.V.'s disabilities.

On March 23, 2018, the juvenile court found the agency had made reasonable efforts to provide reasonable services to father and terminated reunification services as to him. The court stated in part:

"I understand that the services in this matter have been less than perfect, and if, in fact, [father] had made more effort to get engaged with the services that are available, made more effort to find out what is going on with his son, what his son needs, how to communicate with his son, and be more a part of his life, I would feel, okay, maybe—maybe something else should be worked out. But the reality is, is that in this Court's opinion, [father] has pretty much sat on his hands and said, Okay, I will find out later."

The court established for A.V. a permanent plan as continuance in foster care with transition into independent living and set a review hearing pursuant to section 366.3. Father filed a timely appeal to the order terminating his reunification services.

## **DISCUSSION**

Father argues the juvenile court's finding that he was provided with reasonable reunification services is not supported by sufficient evidence. Specifically, he argues the services were unreasonable because of the delay in receiving parenting education classes. He also contends the court improperly considered his level of engagement in services in determining whether he was offered reasonable services. We disagree with both contentions.

As the finding made at the six-month status review hearing on September 7, 2017, was an appealable order for which the time to challenge has passed, our review is limited to the period between the six- and 12-month status review hearings: September 7, 2017, through March 13, 2018. (See *Steve J. v. Superior Court* (1995) 35 Cal.App.4th 798; see also *Tonya M. v. Superior Court* (2007) 42 Cal.4th 836, 846.)

### **A. Agency's Efforts Between September 7, 2017, and March 13, 2018**

We outline the agency's efforts between September 7, 2017, and March 13, 2018, primarily in regard to father's counseling/parenting education classes to illustrate the many challenges the agency encountered in providing these services and because a detailed overview shows the agency was consistently working on father's case and much of the delay in father receiving services was attributable to him.

On September 7, 2017, the social worker contacted the department of social services in Tennessee to inquire about parenting classes or trainings pertaining to parenting a child with special needs. The Tennessee staff member could not provide any information. On September 8, 2017, the social worker received information about a community program referred to by the parties as Down Syndrome Awareness operated by the Down Syndrome Association of Middle Tennessee, where the association provides parent mentors to offer support to parents of children with Down syndrome.

On September 12, 2017, the social worker mailed a copy of father's case plan in Spanish to father.

On September 20, 2017, the social worker emailed approximately six agencies based in Tennessee inquiring about parenting classes for father in Spanish specifically in regard to caring for a child with Down syndrome. On September 21, 2017, the social worker sent father his case plan in Spanish as well as two pictures of A.V.

On October 6, 2017, the social worker called the department of child services in Nashville to inquire about services utilized by their county for parenting education and left a message with a supervisor to call the social worker back.

On October 9, 2017, the social worker received information from the Wilson County Department of Child Services in Tennessee and was given the information for two parenting education service agencies, Health Connect and Camelot. The social worker made referrals for father for each agency that day.

On October 10, 2017, the social worker sent father a case plan and a letter in Spanish.

On October 11, 2017, a representative from Health Connect informed the social worker they would not be able to offer parenting classes to father. A representative from Camelot informed the social worker they would attempt to locate a Spanish speaking clinician for father.

On October 16, 2017, the social worker called father. Father did not answer, and the social worker left a voicemail to call back. On October 19, 2017, the social worker called and spoke to father. The social worker encouraged father to visit A.V. and asked if he would visit if the agency provided transportation for him. Father told the social worker that because of his deportation case, he has concerns about traveling. The social worker told father he would receive phone calls from both Camelot and Down Syndrome Awareness.

On November 6, 2017, the social worker contacted Camelot to arrange for payment. The Camelot representative stated they do not have a set price for assessment or services and typically charge insurances. The representative asked what Stanislaus



County normally charges for services. The social worker informed the representative the agency's contracts department cannot provide an amount and that Camelot would have to. The social worker asked about private pay rates so father could pay out of pocket and be reimbursed by the agency.

On November 7, 2017, the social worker called father and asked him if anyone from Camelot or Down Syndrome Awareness had contacted him. Father said no, and the social worker told father they would "follow up with it" and encouraged father to contact the providers himself. Father said he would.

On November 28, 2017, the social worker gave father the phone number to Camelot. The social worker told father they were unable to get the payment set up and asked father if he could pay out of pocket and be reimbursed later. Father said he would.

On December 7, 2017, and December 15, 2017, the social worker called father. Each time, father did not answer, and the social worker left a voicemail.

On December 28, 2017, the social worker contacted father and asked him if he ever contacted Camelot or Down Syndrome Awareness. Father told the social worker he never got the phone numbers. The social worker told father he needed to inform the social worker of his needs or struggles so the agency could assist him with any other services or help him understand what the agency is requiring of him. The social worker asked father why he did not return the social worker's calls, and father said it just slipped his mind and he forgot. The social worker told father the importance of keeping constant communication. The social worker confirmed father's email address with him on the phone, then emailed the contact information for Camelot and Down Syndrome Awareness and memorialized what they had talked about on the phone.

On January 3, 2018, the social worker called father. Father did not answer, and the social worker left a voicemail. On January 8, 2018, the social worker sent father a text message asking him what time would be best to contact him. Father never responded. On January 10, 2018, the social worker called father. Father did not answer,

and the social worker left a voicemail. On January 11, 2018, the social worker sent an email to father asking him if he had contacted Camelot or Down Syndrome Awareness yet. The email also asked for days father could come visit A.V., stating the agency would provide bus transportation for a visit.

On January 12, 2018, the social worker sent an email to Camelot asking for an update on father. They were notified father's case had been sent to another office, so he could be seen by a Spanish speaking clinician. The representative stated they would check on father's case and "follow up on the stays of these services."

On January 30, 2018, the social worker sent a text message to father explaining the importance of contact and that several attempts had been made to contact him with no response. The social worker spoke to father that day, and father stated he was waiting for someone at Camelot to return his call. He had given the person his insurance information.

On February 6, 2018, the social worker made several phone calls to father to set up a video call visit with A.V., and father did not answer. The social worker left a voicemail.

On February 21, 2018, father completed an intake appointment at Camelot and set up weekly appointments. On February 23, 2018, the social worker spoke to father and told him to provide his case plan to Camelot. The social worker asked if father had contacted the parent mentor from Down Syndrome Awareness. He said he had not because he did not think he needed to as he had made contact with Camelot. The social worker asked him if the parent mentor had contacted him, and father said he did not know because he does not often answer his phone and when he misses calls, the callers do not leave voicemails. The social worker told father he should be more attentive to his phone because the social worker had left voicemails, and father still does not return their calls. Father said he would be more attentive and would contact the parent mentor. The social worker asked father when he would be able to come to California to visit so the

agency could arrange transportation. Father said he was unable to come because he had obligations related to his immigration case. The social worker asked father where would A.V. sleep and go to school if he were to be returned to father's care. Father stated he had a room for A.V., and there is a middle school 10 minutes away from his house. The social worker informed father A.V. is in high school. Father said he would look into it. The social worker sent father's case plan to Camelot on February 26, 2018.

Out of the 11 video call visits scheduled during the period between the six- and 12-month status review hearings between father and A.V., four were completed. Father did not answer six of the calls and was unable to visit during one of them.

## **B. Discussion**

A court's finding that reasonable reunification services were offered to parents is reviewed under the substantial evidence test. (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762.) Substantial evidence consists of evidence that is " 'reasonable, credible and of solid value' [citation] which would allow a reasonable trier of fact" to reach the conclusion the court reached. (*In re Christina A.* (1989) 213 Cal.App.3d 1073, 1080.) Where any substantial evidence supports the order, the appellate court must affirm the decision. (*In re Tracy Z.* (1987) 195 Cal.App.3d 107, 113.) Moreover, all conflicts in the evidence are to be resolved in favor of the court's finding, order or judgment, and all reasonable inferences are required to be made in support of it. (*In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1361.)

The "adequacy of reunification plans and the reasonableness of the [agency's] efforts are judged according to the circumstances of each case." (*Robin V. v. Superior Court* (1995) 33 Cal.App.4th 1158, 1164.) To support a finding reasonable services were offered or provided, "the record should show that the supervising agency identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained *reasonable* contact with the parents during the course of the service

plan, and made *reasonable* efforts to assist the parents in areas where compliance proved difficult....” (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414.)

Father argues his level of engagement with services should not have been a factor in considering whether reasonable services were provided. We reject this claim. “Once a parent has been located, it becomes the obligation of the parent to communicate with the [agency] and participate in the reunification process.” (*In re Raymond R.* (1994) 26 Cal.App.4th 436, 441.) “[I]t is not the court’s role to force a parent to participate in services. ‘It is ... well established that “[r]eunification services are voluntary, and cannot be forced on an unwilling or indifferent parent.” ’ ” (*In re Nolan W.* (2009) 45 Cal.4th 1217, 1233.) Father argues the “parent’s ‘lack of involvement, while discouraging, does not excuse the Department from complying with its obligation to provide reasonable services,’ ” quoting *In re T.W.-I* (2017) 9 Cal.App.5th 339, 348. Our decision does not subvert that concept. However, if the parent refuses to take an active role in the reunification process and this refusal directly affects their getting services, that cannot be said to, on its own, render the agency’s efforts unreasonable. The father’s failure to communicate with the agency was one of the difficult circumstances the agency had to manage as it worked to provide him with services. He frequently did not answer his phone nor return calls and took an overall passive role in the reunification process. He did not show interest in A.V.’s special needs and did not advise the agency on difficulties he was having with his case plan. He was consistently encouraged by the agency to take an active role. His lack of participation is not indicative of lack of services. The court did not err by commenting on father’s passivity.

In addition to father being difficult to get a hold of and passive in his willingness to engage with services, there were many other challenges to providing services in father’s case: father lived out of state, only spoke Spanish, and was not willing to travel because of his pending immigration case. We appreciate father’s argument there was a delay in his receiving any meaningful counseling or parenting education to help him

parent a special needs child. However, we examine the agency's efforts and the services provided in context of all these challenges to determine reasonableness. "The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances." (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.)

Here, in early October, the agency located Camelot, a suitable parenting education service for father, for which they immediately made a referral for father. The month prior the agency had attempted to find suitable services for father through several channels, which did not prove easy. The agency not only contacted social service departments close to where father lived, it contacted many entities that do work focused on Down syndrome. Some of the entities the agency reached out to did not respond, some responded slowly, and/or some could not provide services to father. Once the agency found Camelot, it encountered more challenges in finding a Spanish speaking clinician and making financial arrangements. In addition to working with Camelot to get father services, the agency attempted to contact father several times per month by phone, email, and text message. Father frequently failed to answer his phone and return calls, despite the social worker leaving a voicemail. Father failed to contact Camelot until December, two months after the initial referral, despite being encouraged to do so on multiple occasions. Father was also provided with the contact information of a parent mentor who could help him understand parenting a child with Down syndrome. He never called the parent mentor and did not know whether the mentor called him because he did not answer his phone.<sup>3</sup> He cannot now argue services were unreasonable because of delay.

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<sup>3</sup> Father alleges the parent mentor would only be available to him when A.V. was placed in father's home. We cannot find support for this assertion in the record. One of the portions of the record father cites refers to a different service and the other refers to father's counsel's argument.

The one case father likens his case to, *T.J. v. Superior Court* (2018) 21 Cal.App.5th 1229 (*T.J.*), does not persuade us to come to a different conclusion. In *T.J.*, the appellant was ordered to participate in a program which provided in-home counseling and parenting services to parents with intellectual disabilities, but because the appellant was placed on a waitlist, she was not able to access services. The appellate court found this delay along with problems receiving services in other areas of her case plan rendered her reunification services unreasonable. Father's case is distinguishable because, as discussed, his actions contributed substantially to the delay in receiving services from Camelot and Down Syndrome Awareness.

Father does not contend the agency's efforts to provide visitation was unreasonable, but the visitation portion of father's case plan is an illustration of how the agency's efforts and the parent's willingness to engage with services are intertwined. Though father had fears of deportation and appeared to have time obligations related to his immigration case that kept him from being able to visit, the agency consistently encouraged him to visit from an early stage in the proceedings and asked father several times if there was any method by which father was willing to travel so the agency could make appropriate arrangements. At the end of the six- to 12-month period, father missed most of his scheduled video call visits, and the sole reason father did not have in-person visits was because he refused to travel. There can be no question the agency's efforts to provide visitation were reasonable, yet father did not have one in-person visit with A.V. and missed most of his video call visits. Visitation was of particular importance in father's case plan because he had no relationship with A.V. In-person visitation was even more important because the video call visits were not efficient in developing a bond between A.V. and father.

For the foregoing reasons, we find the agency's efforts to provide services were reasonable under the circumstances, and the juvenile court committed no error.

**DISPOSITION**

The juvenile court order is affirmed in all respects.

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DE SANTOS, J.

WE CONCUR:

\_\_\_\_\_  
PEÑA, Acting P.J.

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SMITH, J.